

PROTECTION OF INDUSTRIAL PROPERTY IN CHINA

Convention signed at Washington May 19, 1908

Senate advice and consent to ratification May 20, 1908

Ratified by the President of the United States June 2, 1908

Ratified by Japan August 3, 1908

Ratifications exchanged at Tokyo August 6, 1908

Proclaimed by the President of the United States August 11, 1908

Entered into force August 16, 1908

*Became obsolete May 20, 1943*¹

35 Stat. 2044; Treaty Series 507

The President of the United States of America and His Majesty the Emperor of Japan being desirous to secure in China reciprocal protection for the inventions, designs, trade marks and copyrights of their respective citizens and subjects have resolved to conclude a convention for that purpose and have named as their Plenipotentiaries, that is to say:

The President of the United States of America, Robert Bacon, Acting Secretary of State of the United States; and

His Majesty the Emperor of Japan, Baron Kogoro Takahira, Shosammi, Grand Cordon of the Imperial Order of the Rising Sun, His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after having communicated to each other their Full Powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

Inventions, designs and trade marks duly patented or registered by citizens or subjects of one High Contracting Party in the appropriate office of the other Contracting Party shall have in all parts of China the same protection against infringement by citizens or subjects of such other Contracting Party as in the dominions and possessions of such other Contracting Party.

¹ Date on which the United States relinquished extraterritorial rights in China pursuant to treaty of Jan. 11, 1943 (TS 984, *ante*, vol. 6, p. 739, CHINA).

ARTICLE II

The citizens or subjects of each of the two High Contracting Parties shall enjoy in China the protection of copyright for their works of literature and art as well as photographs to the same extent as they are protected in the dominions and possessions of the other party.

ARTICLE III

In case of infringement in China by a citizen or subject of one of the two High Contracting Parties of any invention, design, trade mark or copyright entitled to protection in virtue of this convention the aggrieved party shall have in the competent territorial or consular courts of such Contracting Party the same rights and remedies as citizens or subjects of such Contracting Party.

ARTICLE IV

Each High Contracting Party engages to extend to the citizens or subjects of the other Contracting Party the same treatment in China in the matter of protection of their commercial names as they enjoy in the dominions and possessions of such Contracting Party under the convention for the protection of industrial property signed at Paris March 20, 1883.² "Hong" marks shall be considered to be commercial names for the purpose of this convention.

ARTICLE V

Citizens of possessions belonging to the United States and subjects of Korea shall have in China the same treatment under the present convention as citizens of the United States and subjects of Japan respectively.

ARTICLE VI

It is mutually agreed between the High Contracting Parties that the present convention shall be enforced so far as applicable in any other country in which either Contracting Party may exercise extraterritorial jurisdiction.

All rights growing out of the present convention shall be recognized in the insular and other possessions and leased territories of the High Contracting Parties and all legal remedies provided for the protection of such rights shall be duly enforced by the competent courts.

ARTICLE VII

Any person amenable to the provisions of this convention who possesses at the time the present convention comes into force merchandise bearing an imitation of a trade mark owned by another person and entitled to protection under said convention shall remove or cancel such false trade mark

² TS 379, *ante*, vol. 1, p. 80.

or withdraw such merchandise from market in China within six months from the date of the enforcement of this convention.

ARTICLE VIII

Unauthorized reproductions by the citizens or subjects of one High Contracting Party prior to the operation of this convention of the works of literature and art as well as photographs of the citizens or subjects of the other Contracting Party published after the 10th day of May, 1906, and entitled to protection in virtue of this convention shall be withdrawn from sale or circulation in China within one year from the date of the enforcement of this convention.

ARTICLE IX

The present convention shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible. It shall come into force together with the convention relative to the protection of inventions, designs, trademarks and copyrights in Korea, ten days after such exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate and have thereunto affixed their seals.

Done at the City of Washington the 19th day of May in the nineteen hundred and eighth year of the Christian era corresponding to the 19th day of the 5th month of the 41st year of Meiji.

ROBERT BACON	[SEAL]
K. TAKAHIRA	[SEAL]